

associated with the removal of the dam, or \$114,300. The resulting annual net benefit for the dam removal alternative would be about -\$284,270.¹²

40. Based on our independent review and evaluation of the Little Falls Project, the recommendations of the resource agencies and other stakeholders, the dam removal alternative, and the no-action alternative, as documented in the FEIS, we have selected the proposed action with the additional staff-recommended and agency-required measures, as the preferred alternative. The project, as conditioned herein, will be best adapted to the comprehensive development of the waterway for beneficial public purposes.

41. We selected this alternative because: (1) issuance of a new license would allow S.D. Warren to maintain a beneficial, dependable, and an inexpensive source of electric energy; (2) the electric energy generated by the project would continue to offset the use of fossil-fuel-fired generation and capacity, thereby conserving non-renewable resources and reducing atmospheric pollution; and (3) the required environmental measures would either protect or enhance water quality, fish and terrestrial resources (including wetlands), public use of recreation facilities and resources, land uses, and historic and archaeological resources in the Presumpscot River and the area affected by the project.

The preferred alternative includes the following measures:

- (1) operation of the Little Falls Project in a run-of-river mode;
- (2) maintenance of leakage flows from the dam into the bypassed reaches;
- (3) possible future installation of upstream and downstream fish passage facilities for American shad and river herring, as generally prescribed by FWS, and development of a fish passage implementation plan;
- (4) design and installation of upstream eel passage facilities, and development and implementation of an eel passage implementation and monitoring plan;

¹² Removal of Little Falls would also increase the cost at the Gambo and Mallison Falls projects because the transmission line from the Gambo powerhouse to S.D. Warren's mill facilities in Westbrook is used by all three projects. Currently, the \$75,000 per year maintenance cost is divided equally among the three projects. If Little Falls were removed, the maintenance cost would be borne by the remaining two projects.

- (5) development and implementation of a plan for downstream eel passage, including provisions for project shutdowns and conducting a 3-year downstream migrating eel study to assess timing of peak eel movement;
- (6) impoundment drawdown restrictions and implementation of impoundment refill procedures;
- (7) development of a recreational facilities enhancement plan and monitoring of recreation use after construction of the recreation facilities.

License Term

42. Section 15(e) of the FPA, 16 U.S.C. § 808 (e), specifies that any license issued shall be for a term that the Commission determines to be in the public interest, but not less than 30 years or more than 50 years from the date on which the license is issued. The Commission's policy establishes 30-year terms for projects with little or no proposed redevelopment, new construction, new capacity, or environmental mitigation and enhancement measures; 40-year terms for projects with a moderate amount thereof; and 50-year terms for projects with an extensive amount thereof. It is also the Commission's policy to coordinate to a reasonable extent the license expiration dates of projects in a river basin, in order that subsequent relicense proceedings can also be coordinated.¹³

43. The new license for the Little Falls Project, as well as for the other four projects, requires a moderate amount of construction and environmental mitigation and enhancement measures, and we are therefore issuing the subsequent license for the Little Falls Project (and the other four projects) for a 40-year term. This determination does not include the costs of constructing fish passage facilities for anadromous fish, which is dependent upon the occurrence of certain events. Issuing licenses with 40-year terms for all five of the projects will continue to facilitate contemporaneous expiration of licenses of projects in the same river basin, and thereby further the Commission's policy for coordinated treatment of future relicensing proceedings.

The Commission orders:

(A) This license is issued to S.D. Warren Company (licensee), for a period of 40 years, effective the first day of the month in which this order is issued, to operate and maintain the Little Falls Project. This license is subject to the terms and conditions of the

¹³ See 18 C.F.R. § 2.23 (2003).

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FPA, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by Exhibit G, filed on January 22, 1999:

<u>Exhibit G Drawing</u>	<u>FERC No. 2941-</u>	<u>Showing</u>
G-1	1003	Project Area Map

(2) The project works consisting of: (a) 330-foot-long and 14-foot-high reinforced concrete and masonry dam, comprised of a 160-foot-long by 14-foot-high spillway section with a crest elevation of 106.7 feet U.S. Geological Survey (USGS) datum and 24-inch wooden flashboards, a 101.5-foot-long by 14-foot-high stone sluiceway dam (located at a right angle to the spillway dam) with three sluice gates, a wastegate structure, and a 70-foot-long intake structure; (b) a 1.7-mile-long impoundment, with a normal pool elevation of 108.7 feet USGS datum, a surface area of about 29 acres and negligible storage; (c) a 25-foot-wide by 95-foot-long masonry powerhouse which is integral to the spillway dam; (d) four vertical Francis turbines direct-connected to the generators, each with an installed capacity of 250 kilowatts (kW) for a total installed capacity of 1,000 kW; (e) a 300-foot-long bypassed reach; (f) 2.3-kilovolt (kV) generator leads, a 2.3-kV/11-kV step-up transformer, and an 11-kV transmission line tied into the Gambo Project transmission line; and (g) other appurtenances.

The project works are more specifically described in Exhibit A of the application (pages A-1 to A-11) and shown by Exhibit F drawings, filed January 22, 1999:

<u>Exhibit F Drawing</u>	<u>FERC No. 2941-</u>	<u>Description</u>
F-1	1001	Plan of Dam and Cross Sections
F-2	1002	Powerhouse Plan and Section

(3) All of the structures, fixtures, equipment, or facilities used or useful in the operation and maintenance of the project and located within the project boundary, all portable property that may be employed in connection with the project and located within or outside the project boundary, as approved by the Commission, and all riparian or other rights that are necessary or appropriate in the operation and maintenance of the project.

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(C) Exhibits A, F, and G, listed above, are approved and made part of this license.

(D) This license is subject to the water quality certification conditions applicable to the Little Falls Project No. 2941 submitted by the State of Maine Department of Environmental Protection pursuant to Section 401(a) of the Clean Water Act, as those conditions are set forth in Appendix A to this order.

(E) This license is subject to the fishway prescription applicable to the Little Falls Project No. 2941 submitted by the Department of the Interior's U.S. Fish and Wildlife Service, as set forth in Appendix B to this order.

(F) The following sections of the FPA are waived and excluded from the license for this minor project: 4(b), except the second sentence; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the FPA that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15; 16; 19; 20; and 22.

(G) This license is subject to the articles set forth in Form L-9 (October 1975), entitled, "Terms and Conditions of License for Constructed Minor Project Affecting Navigable Waters of the United States," and the following additional articles.

Article 201. The licensee shall pay the United States the following annual charges: for the purposes of reimbursing the United States for the costs of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commissioner's regulations in effect from time to time. The authorized installed capacity for that purpose is 1,000 kilowatts (kW). This annual charge shall be effective as of the first day of the month in which the license is issued. Under regulations currently in effect, projects with authorized capacity of less than or equal to 1,500 kW will not be assessed an annual administrative charge.

Article 202. Within 45 days of the date of issuance of the license, the licensee shall file an original set and two duplicate sets of aperture cards of the approved drawings. The set of originals must be reproduced on silver or gelatin 35 mm microfilm. The duplicate sets are copies of the originals made on diazo-type microfilm. All microfilm must be mounted on type D (3-1/4" x 7-3/8") aperture cards. The licensee shall submit one copy of FORM-587 with the aperture cards.

Prior to microfilming, the Commission Drawing Number (2941-1001 through 2941-1003) shall be shown in the margin below the title block of the approved drawing.

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After mounting, the Commission Drawing Number must be typed on the upper right corner of each aperture card. Additionally, the Project Number, Commission Exhibit (e.g., F-1, G-1, etc.), Drawing Title, and date of this license must be typed on the upper left corner of each aperture card.

The original and one duplicate set of aperture cards must be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The remaining duplicate set of aperture cards shall be filed with the Commission's New York Regional Office.

Article 301. At least 60 days before starting construction of the fish passage facilities required by this license, the licensee shall submit one copy to the Commission's Division of Dam Safety and Inspections-New York Regional Office Regional Engineer and two copies to the Commission (one of these shall be a courtesy copy to the Director, Division of Dam Safety and Inspections) of the final contract plans and specifications, including a blasting plan, if applicable. The Commission may require changes to the plans and specifications to assure construction is performed in a safe and environmentally sound manner. Construction may not commence until authorized by the Regional Engineer.

Article 302. At least 60 days before starting construction of the fish passage facilities required by this license, the licensee shall submit one copy to the Commission's Division of Dam Safety and Inspections-New York Regional Office Regional Engineer and two copies to the Commission (one of these shall be a courtesy copy to the Director, Division of Dam Safety and Inspections) of the Quality Control and Inspection Program (QCIP) for the Commission's review and approval. The QCIP shall include a sediment and erosion control plan.

Article 303. Before starting construction of the fish passage facilities required by this license, the licensee shall review and approve the design of contractor-designed cofferdams and deep excavations. At least 30 days before starting construction of the cofferdams, the licensee shall submit one copy to the Commission's Division of Dam Safety and Inspections-New York Regional Office Regional Engineer and two copies to the Commission (one of these copies shall be a courtesy copy to the Commission's Director, Division of Dam Safety and Inspections) of the approved cofferdam construction drawings and specifications, and the letters of approval.

Article 304. At least 60 days before starting construction of the fish passage facilities required by this license, the licensee shall submit one copy to the Commission's Division of Dam Safety and Inspections-New York Regional Office Regional Engineer and two copies to the Commission (one of these shall be a courtesy copy to the Director, Division of Dam Safety and Inspections) of the Temporary Emergency Action Plan

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(TEAP) for the Commission's review and approval. The TEAP shall describe emergency procedures in case of failure of a cofferdam, any large sediment control structure, or any other water retaining structure that could endanger construction workers or the public. The TEAP shall include a notification list of emergency response agencies, a plan drawing of the proposed cofferdam arrangement, the location of safety devices and escape routes, and a brief description of testing procedures.

Article 305. Within 90 days of completion of construction of the flow measuring equipment specified in Article 403, any fish passage facilities required by Articles 404, 405 and 406, and recreational facilities specified in Article 408, the licensee shall file, for Commission approval, revised Exhibits A, B, F, and G to describe and show the project facilities as-built. The licensee shall submit six copies to the Commission, one copy to the Commission's Regional Director, Division of Dam Safety and Inspections, and one to the Director, Office of Energy Projects.

Article 401. The licensee shall operate the project in a run-of-river mode, with an impoundment elevation of 108.7 feet U.S. Geological Survey datum, for the protection and enhancement of water quality and fisheries resources in the Presumpscot River. The licensee shall, at all times, act to minimize the fluctuation of the impoundment surface elevation by maintaining a discharge from the project so that, at any point in time, flows, as measured immediately downstream of the project tailrace, approximate the sum of the inflows to the project impoundment.

Run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the licensee, and for short periods upon mutual agreement between the licensee, the Maine Department of Environmental Protection, and the U.S. Fish and Wildlife Service. If the flow is so modified, the licensee shall notify the Commission as soon as possible, but no later than 10 days after each incident.

Article 402. The licensee shall manage water levels in the Little Falls impoundment for the protection and enhancement of water quality and fishery resources in the Presumpscot River in accordance with Appendix A to this order. The licensee shall notify personnel at the Region A Fisheries Headquarters of the Maine Department of Inland Fisheries and Wildlife and the Commission 2 weeks prior to any planned drawdown and as soon as possible, but no later than 10 days after any unplanned (or emergency) drawdown.

Article 403. Within 180 days of license issuance, the licensee shall file, with the Commission, for approval, a project operations and flow monitoring plan to document compliance with run-of-river operation and the impoundment drawdown restrictions, as required by Articles 401 and 402 of this license, and Conditions 1.A. and 2.A. of

Appendix A. The licensee may prepare a single plan that encompasses other licensee-owned projects on the Presumpscot River having similar license conditions and schedules.

The plan shall provide a means to: (1) independently verify compliance with run-of-river operation and the impoundment drawdown requirements of this license; and (2) allow agencies to consult regarding the methods to be used. The plan shall identify the monitoring methods and locations of the monitoring equipment needed to ensure that the project is operated in a manner consistent with the requirements of this license.

The plan shall include, at a minimum;

- (1) a provision to maintain the impoundment elevation at 108.7 feet U.S. Geological Survey datum and notify the Maine Department of Inland Fisheries and Wildlife of any planned drawdowns;
- (2) a description (including location) of any existing equipment that will be used to record water surface elevations and flows, and the planned locations of any additional flow and water temperature measuring equipment needed to monitor project operations, flows and water temperatures;
- (3) the design of the monitoring equipment, including any pertinent hydraulic calculations, technical specifications of proposed instrumentation, erosion and sediment control measures, as appropriate, and design drawings of the system;
- (4) a description of the methods and schedule for installing, calibrating, operating and maintaining the monitoring equipment;
- (5) specific measures that would ensure that the monitoring system operates under all conditions (including loss of external electric power to the project);
- (6) a description of the relative extent of manned versus automatic operation of the monitoring equipment;
- (7) proposed data collection and storage protocols, and a provision to report flow, water temperature, and water surface elevation data to the Commission and the consulted agencies in a timely manner; and

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- (8) a schedule for implementing the project operations and flow monitoring plan.

The licensee shall prepare the project operations and flow monitoring plan in consultation with the Maine Department of Environmental Protection (MDEP), the U.S. Fish and Wildlife Service (USFWS) and the U.S. Geological Survey. The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific conditions.

The project operations and flow monitoring plan shall include provisions consistent with the emergency notification requirements for run-of-river operation and drawdowns required by this license. In addition, should impoundment elevations and impoundment drawdowns, as measured according to the approved monitoring plan, deviate from license requirements, the plan shall include a provision whereby the licensee files, with the Commission, a report of the incident within 30 days of the incident. The licensee shall prepare the report in consultation with the MDEP and the USFWS.

The report shall, to the extent possible, identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental impacts resulting from the incident. The report also shall include: (1) operational data necessary to determine compliance with this article; (2) a description of any corrective measures implemented at the time of the occurrence and the measures implemented or proposed to ensure that similar incidents do not recur; and (3) comments or correspondence, if any, received from the MDEP and the USFWS regarding the incident. Based on the report and the Commission's evaluation of the incident, the Commission reserves the right to require modifications to project facilities and operations to ensure future compliance.

The Commission reserves the right to require changes to the project operations and flow monitoring plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission. Any equipment installed in accordance with this article shall be shown on the as-built drawings filed pursuant to Article 305 of this license.

Article 404. The licensee shall develop and implement an upstream American eel passage plan. The plan shall include provisions to install, operate, maintain, and evaluate, as appropriate, upstream fish passage facilities for American eel at the Little

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Falls Project. The purpose of the plan is to enhance upstream passage at the Little Falls Project and movement throughout the Presumpscot River drainage. The licensee may prepare a single plan that encompasses other licensee-owned projects on the Presumpscot River having similar license conditions and schedules.

Within 180 days of license issuance, the licensee shall file, for Commission approval, an upstream American eel passage plan that includes, at a minimum:

- (1) final detailed design drawings and other design criteria for the proposed upstream eel passage facility;
- (2) the proposed location of the upstream eel passage facility, determined in consultation with the Maine Department of Marine Resources (MDMR) and the U.S. Fish and Wildlife Service (USFWS);
- (3) quantification of the flows required to operate the upstream eel passage facility;
- (4) an operation and maintenance plan, including a schedule for operating the installed upstream eel passage facility;
- (5) an erosion and sedimentation control plan, if ground-disturbing activities are required as part of the eel passage design and construction; and
- (6) a schedule for implementing the plan, which provides for installing the upstream eel passage facility within 2 years of license issuance.

The upstream American eel passage plan also shall include provisions to evaluate the effectiveness of the upstream eel fish passage facility. The monitoring provisions of the plan shall include a description of the study methodology employed, as well as a schedule for: (1) implementing the monitoring provisions; (2) consulting with the appropriate federal and state agencies concerning the results of the monitoring; and (3) filing the results (in the form of a final report), along with any recommended changes to the facility, agency comments, and the licensee's response to agency comments with the Commission.

If the results of the monitoring indicate that changes in project structures or operations are necessary to facilitate upstream eel passage, the Commission may direct the licensee to make such reasonable changes in the design of the facilities and/or operations, as necessary.

The licensee shall prepare the upstream American eel passage plan in consultation with the MDMR, the Maine Department of Environmental Protection, and the USFWS. The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.

The Commission reserves the right to require changes to the upstream American eel passage plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission. Any structure built in accordance with this plan shall be shown on the as-built drawings filed pursuant to Article 305 of this license.

Article 405. Beginning September 1, 2004, and annually thereafter, the licensee shall cease generation at sunset for at least 8 hours per night from September 1 through October 31, as required by Prescription 5 of Appendix B. The licensee shall determine the timing of the generation shutdown each year in consultation with the Maine Department of Marine Resources (MDMR) and the U.S. Fish and Wildlife Service (USFWS). The purpose of the shutdown period is to provide out-migrating American eel safe and timely passage downstream past the project via flows over the project dam.

The licensee shall, in consultation with the MDMR and the USFWS, conduct a 3-year study to determine the specific timing of the generation shutdown, so as to provide the optimum benefit for eel out-migration. Within 180 days of license issuance, the licensee shall file, with the Commission, for approval, a plan to monitor eel out-migration in the Presumpscot River. The licensee may prepare a single plan that encompasses other licensee-owned projects on the Presumpscot River having similar license conditions and schedules. The monitoring plan shall include, at a minimum:

- (1) a provision to monitor eel out-migration past the project for the first 3 years after initiating the generation shutdowns in accordance with this article;
- (2) a description of the study methodology employed; and
- (3) a schedule for: (a) implementing the plan and monitoring provisions; (b) consultation with the appropriate federal and state agencies concerning the results of the monitoring; and (c) filing the results (in

the form of a final report), along with any recommendations for changes in the timing of generation shutdowns, agency comments, and the licensee's response to agency comments with the Commission.

The licensee shall prepare the downstream American eel passage and monitoring plan in consultation with the MDMR, the Maine Department of Environmental Protection (MDEP), and the USFWS. The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.

The Commission reserves the right to require changes to the downstream American eel passage and monitoring plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

If the results of the monitoring indicate that changes in the timing of generation shutdowns are necessary to effectively pass eels downstream past the project, the licensee may petition the MDEP and the USFWS to adjust the timing and duration of the generation shut downs. The Commission, based on the monitoring results and any recommendations filed by the licensee and agencies, may direct the licensee to make such reasonable changes in project facilities and operations, as necessary. Any structure built in accordance with this article shall be shown on the as-built drawings filed pursuant to Article 305 of this license.

Article 406. Within 180 days of license issuance, the licensee shall file, with the Commission, for approval, a fish passage implementation plan for the installation, operation, maintenance, and evaluation, as appropriate, of upstream and downstream anadromous fish passage facilities at the Little Falls Project. The purpose of the plan is to monitor the need for fish passage at the five Presumpscot River projects to enhance populations of Atlantic shad and blueback herring in the Presumpscot River. The licensee shall prepare a single plan for its Dundee, Gambo, Little Falls, Mallison Falls, and Saccarappa projects to ensure coordination of fish passage among the projects.

The plan shall include, at a minimum:

- (1) a schedule and format for filing an annual status report with the Commission, on the progress of anadromous fish restoration efforts

in the Presumpscot River, including efforts to provide fish passage at the downstream Cumberland Mills dam and fish counts at any or all downstream dams where fish passage has been installed;

- (2) a description of the specific criteria (e.g., the number of fish passing the next downstream dam) that would trigger the development of individual fish passage design plans for the five Presumpscot River dams; and
- (3) an estimated schedule (or proposed time intervals) for installing fish passage facilities at each of the five project dams, once the Commission determines that fish passage is required in accordance with the U.S. Fish and Wildlife Service's (USFWS) fishway prescription.

The licensee shall prepare the fish passage implementation plan in consultation with the Maine Department of Environmental Protection, the Maine Department of Marine Resources, the Maine Atlantic Salmon Commission, the Maine Department of Inland Fisheries and Wildlife, and the U.S. Fish and Wildlife Service. The licensee shall include, with the plan, documentation of agency consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the agencies' comments are accommodated by the plan. The licensee shall allow a minimum of 30 days for the agencies to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on site-specific information.

The Commission reserves the right to require changes to the fish passage implementation plan. Upon Commission approval, the licensee shall implement the plan, including any changes required by the Commission.

Article 407. Authority is reserved, by the Commission, to require the licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of, such fishways as may be prescribed by the Secretary of the Interior during the term of the license under Section 18 of the Federal Power Act.

Article 408. Within 1 year of license issuance, the licensee shall file, for Commission approval, a Recreational Facilities Enhancement Plan for the Little Falls Project. The licensee may prepare a single plan that encompasses other licensee-owned projects on the Presumpscot River having similar license conditions and schedules.

The plan shall provide final details of the licensee's plans and schedules to construct, operate, and maintain the following recreational enhancements at the project consistent with conceptual plans provided in Section 2.5.3 and shown in Figures E.2.5-1 of the license application:

- (1) a formal canoe portage trail with signage and parking;
- (2) a provision to assist the Gorham Land Trust in developing a car-top boat launch, with signage and parking, at the Gorham Land Trust Property off of Tow Path Road ; and
- (3) documentation of donation of 0.8 acres of land to Gorham Trails.

This plan should include, at a minimum, the following elements: (1) final design drawings and a construction schedule for each of the facilities listed above; (2) specifications of the materials to be used and any special features and landscaping procedures that would enhance area aesthetics; (3) site-specific measures to control erosion and sedimentation during, and subsequent to, construction of the proposed facilities; and (4) a discussion of how the needs of the disabled were considered in the planning and design of each recreation facility.

The licensee shall prepare the plan in consultation with the Maine Department of Environmental Protection (MDEP), the Maine Department of Conservation (MDOC), the Maine Department of Inland Fisheries and Wildlife (MDIFW), the Maine Department of Marine Resources (MDMR), the Maine Historic Preservation Commission (MHPC), the National Park Service (NPS), the town of Windham, Gorham Trails, the Casco Bay Estuary Project (CBEP), and U.S. Fish and Wildlife Service (USFWS).

The licensee shall include with the plan documentation of consultation, copies of comments and recommendations received on the plan after it has been prepared and provided to the MDEP, MDOC, MDIFW, MDMR, MHPC, NPS, the town of Windham, Gorham Trails, CBEP, and USFWS, and specific descriptions of how the MDEP, MDOC, MDIFW, MDMR, MHPC, NPS, the town of Windham, Gorham Trails, CBEP, and USFWS are accommodated by the plan. The licensee shall allow a minimum of 30 days for the consulted entities to comment and make recommendations prior to filing the plan with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the plan. No ground-disturbing or land-clearing activities for new recreational facilities shall begin until the

Commission notifies the licensee that the plan is approved. Upon approval, the licensee shall implement the plan, including any changes required by the Commission. Any facilities built in accordance with this plan shall be shown on the as-built drawings filed pursuant to Article 305 of this license.

Article 409. Within 3 years of license issuance, the licensee shall file, for Commission approval, a plan for monitoring recreational use at the project. The purpose of the recreational use monitoring is to determine the adequacy of the recreational enhancements as required in Article 408 in meeting recreational demand at the project. The licensee may prepare a single plan that encompasses other licensee-owned projects on the Presumpscot River having similar license conditions and schedules.

The plan, at a minimum, shall include:

- (1) a statement of methodology including the type and frequency of monitoring measures;
- (2) a provision to monitor boating and angler use;
- (3) a provision to assess the recreational needs at the project;
- (4) an implementation schedule that would ensure completion of the monitoring of recreational use so that a recreational use report, based on the monitoring data, and any recommendations shall be filed with the Commission by December 31, 2009. The recreational use report may be filed in conjunction with the A Licensed Hydropower Development Recreation Report® (Form 80) for the licensee-owned Gambo and Dundee Projects (P-2931 and P-2942, respectively);
- (5) a provision for subsequent monitoring and filing, with the Commission, of a recreational use report every 12 years thereafter, and if there is a need for additional facilities, measures proposed by the licensee to accommodate recreation needs in the project area. The recreational use report may be filed in conjunction with the Form 80 for licensee-owned Gambo and Dundee Projects (P-2931 and P-2942, respectively); and
- (6) a schedule for consulting with the Maine Department of Conservation (MDOC), the Maine Department of Inland Fisheries and Wildlife (MDIFW), the Maine Department of Marine Resources (MDMR), U.S. Fish and Wildlife Service (USFWS), prior to the recreational use report being filed with the Commission. The licensee shall file the summary of